

ATTORNEY GENERAL[61]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 261F.4(6), the Attorney General adopts new Chapter 37, “Required Disclosures for Philanthropic Contributions Made by Certain Student Loan Lenders to Certain Educational Institutions,” Iowa Administrative Code.

The provisions of Iowa Code chapter 261F govern educational loans. Iowa Code section 261F.4(6) requires the Attorney General to adopt rules providing for disclosures relating to philanthropic contributions made as specified in Iowa Code section 261F.1(5)(d). The new rule includes the disclosure requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 30, 2012, as **ARC 0147C**. Oral comments were received from representatives of one lending industry member suggesting that the proposed rule be amended to delete disclosure requirements for lenders. The adopted rule does not include proposed subrule 37.1(3), which contained disclosure requirements for lending institutions. The remaining disclosure requirements for educational institutions will suffice to make the information about philanthropic contributions easily accessible without imposing unnecessary costs on lending institutions. The deletion of proposed subrule 37.1(3) further necessitated the deletion of the definition of “borrower” in subrule 37.1(1). In addition, paragraph 37.1(1)“b” has been revised to remove the requirement that “the contributor” consider all the facts and circumstances relating to the determination of the “monetary value” of nonmonetary philanthropic contributions as in the context of this rule it is the duty of the educational institution to publicly disclose the monetary value of each philanthropic contribution received. A requirement that certain educational institution Web site “hyperlinks” mandated by the rule be “clear and conspicuous” has been added as well. Also, proposed subrule 37.1(4) has been renumbered as 37.1(3) in the adopted rule, and a new subrule 37.1(4) has been added to the adopted rule to include a provision to attempt to ensure that the rule is not interpreted to affect the Attorney General’s existing civil subpoena or other investigative authority pursuant to Iowa Code section 714.16.

The rule was adopted by the Attorney General on August 16, 2012.

After analysis and review of this rule making, no impact on jobs has been found.

This rule is intended to implement Iowa Code section 261F.4(6).

This rule shall become effective October 10, 2012.

The following amendment is adopted.

Adopt the following new 61—Chapter 37:

CHAPTER 37**REQUIRED DISCLOSURES FOR PHILANTHROPIC CONTRIBUTIONS MADE BY CERTAIN STUDENT LOAN LENDERS TO CERTAIN EDUCATIONAL INSTITUTIONS****61—37.1(261F) Required disclosures by covered institutions relating to certain philanthropic contributions.**

37.1(1) Definitions. The terms “covered institution,” “educational loan,” “gift,” “lender,” “lending institution,” “preferred lender arrangement,” and “preferred lender list” have the same meaning as those terms are defined in Iowa Code section 261F.1.

a. The term “de minimis” means a monetary amount or fair market value of \$100 or less, as applicable. For the purposes of this chapter, a gift from a lending institution is not de minimis if the cumulative sum of all such monetary and other gifts from the lending institution to the covered institution exceeds \$100 in the same calendar year.

b. The term “monetary value” relating to a nonmonetary philanthropic contribution means the fair market value of the contribution. All the facts and circumstances connected with the contribution must be considered in the determination of fair market value, including but not limited to the use, desirability

to the recipient, scarcity of the contributed product or service and the average price the recipient would pay to purchase the contributed product or service.

c. The term “philanthropic contribution” means a charitable contribution that is unrelated to educational loans from a lending institution to a covered institution and is not de minimis.

37.1(2) A covered institution with a preferred lender list that has received a philanthropic contribution from a preferred lender during the current calendar year or either of the two prior calendar years shall do each of the following:

a. Include one of the following on all preferred lender lists:

(1) A clear and conspicuous statement of all philanthropic contributions received from preferred lenders during the current calendar year and the two prior calendar years, including the monetary value and nature of each contribution.

(2) A clear and conspicuous hyperlink to the covered institution’s primary public Web site related to private educational loans to the statement required pursuant to paragraph 37.1(2) “b.”

b. Post for public viewing on the covered institution’s primary public Web site related to private educational loans a clear and conspicuous statement of all philanthropic contributions received from preferred lenders during the current calendar year and the two prior calendar years, including the monetary value and nature of each contribution, or maintain a clear and conspicuous hyperlink displayed on that Web site that links the reader to the required statement.

37.1(3) A charitable contribution unrelated to educational loans that is made by an employee or member of the board of directors of a lending institution to a covered institution is not a philanthropic contribution pursuant to Iowa Code chapter 261F and this rule so long as the lending institution does not represent the donor as being the lending institution or as an employee or member of the board of directors of the lending institution, as applicable, unless required by law.

37.1(4) Nothing in this rule shall affect the Attorney General’s civil subpoena or other investigative authority pursuant to Iowa Code section 714.16 regarding a covered institution or a lending institution.

This rule is intended to implement Iowa Code section 261F.4(6).

[Filed 8/20/12, effective 10/10/12]

[Published 9/5/12]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/5/12.